

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NICHOLAS DELMONICO,
Plaintiff,
vs.

CIVIL ACTION
NO.:

SERENITY SMITH, SERGIO VASSALLO,
RYDER TRUCK RENTAL, INC.,
NORTHEAST METAL TRADERS, INC.
RANDY DE-LOSSANTOS, DLS EXPRESS,
INC, AMAZON.COM, INC. A/K/A
AMAZON.COM, LLC A/K/A AMAZON
LOGISTICS, INC., GEICO CASUALTY
COMPANY AND ABC COMPANY I AND II,

Defendants.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1441 and § 1332(a)(1),
Defendant, Amazon.com, Inc. a/k/a Amazon.com, LLC a/k/a Amazon Logistics, Inc.
("Amazon"), by and through its counsel, **WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP**, hereby removes this action to the United States District Court for the Eastern District of Pennsylvania from the Court of Common Pleas of Philadelphia County, Pennsylvania on the following grounds:

1. On October 10, 2022, Plaintiff, Nicholas Delmonico, filed a Complaint against Amazon and Co-Defendants, Serenity Smith, Sergio Vassallo, Ryder Truck Rental, Inc., Northeast Metal Traders, Inc. Randy De-Lossantos, DLS Express, Inc., Geico Casualty Company and ABC Company I and II. This Complaint alleges damages for personal injuries allegedly sustained when Plaintiff was allegedly involved in a motor vehicle accident with

Defendant De-Lossantos following a collision between Defendant De-Lossantos and Defendant Vassallo and/or Defendant Smith. *See* a true and correct copy of Plaintiff's Complaint, attached hereto and marked as Exhibit "A."

2. This civil action is a controversy between citizens of different states.
3. Plaintiff, Nicholas Delmonico, is a citizen of Arizona with an address located at 15501 N. Dial Boulevard, Apt. 2048 Scottsdale, AZ 85260. *See* Complaint, ¶ 1.
4. Plaintiff alleges that Defendant, Serenity Smith, is an adult individual residing at 2645 S. Marshall Street, Philadelphia, PA 19148 and upon information and belief is a citizen of the commonwealth of Pennsylvania. *See* Complaint, ¶ 2.
5. Plaintiff alleges that Defendant, Sergio Vassallo, is an adult individual residing at 971 Maple Drive, Southampton, PA 18966 and upon information and belief is a citizen of the commonwealth of Pennsylvania. *See* Complaint, ¶ 3.
6. Plaintiff alleges that Defendant, Ryder Truck Rental, Inc., is a corporate entity with a principal place of business located in the state of Florida, at 11690 NW 105th Street, Miami, Florida 33178 and upon information and belief is incorporated in the state of Florida. *See* Complaint, ¶ 4.
7. Plaintiff alleges that Defendant, Northeast Metal Traders, Inc., is a corporate entity with a principal place of business located in the Commonwealth of Pennsylvania, at 7345 Milnor Street Philadelphia, PA 19136 and upon information and belief is a citizen of the commonwealth of Pennsylvania. *See* Complaint, ¶ 5.
8. Plaintiff alleges that Defendant, Randy De-Lossantos, is an adult individual residing at 1000 Spruce Street, Apartment 104, Newark, NJ 07108 and upon information and belief is a citizen of New Jersey. *See* Complaint generally.

9. Plaintiff alleges that Defendant, DLS Express, Inc., is a corporate entity with a principal place of business located in the state of New Jersey, at 143 Huntingdon Terrace Newark, NJ 07112 and upon information and belief is incorporated in New Jersey. *See Complaint generally.*

10. Defendant, Amazon, is a corporate entity with a principal place of business located in the state of Washington, at 410 Terry Avenue North, Seattle, Washington 98109 and is incorporated in the state of Delaware.

11. Plaintiff alleges that Defendant, Geico Casualty Company., is a corporate entity with a principal place of business located in the state of Maryland, at 5260 Western Avenue Chevy Chase, MD 20815 and upon information and belief is incorporated in the state of Maryland. *See Complaint, ¶ 7.*

12. Accordingly, the parties are citizens of different states and the diversity of citizenship requirement as outlined in 28 U.S.C. § 1332(a) is satisfied.

13. Without admission thereto, the Complaint asserts claims for negligence, negligent entrustment and respondeat superior, and seeks recovery of both past and future compensatory damages for alleged pain and suffering, loss of physical function, and loss of earnings. *See Complaint, ¶¶ 38-41.*

14. Plaintiff's Complaint specifically alleges that he "suffered severe and permanent injuries including, but not limited to, disc protrusion at L5-S 1 that displaced the left S1 nerve root, L4-5 bulging disc, neck strain/sprain, left shoulder pain, upper back sprain/strain, right hip pain, lower strain/sprain, and various other ills and injuries." *See Complaint at ¶ 23.*

15. Plaintiff's Complaint also alleges that he suffered a loss of earnings and future earning capacity as a result of the collision. *See Complaint at ¶ 26.*

16. Based upon the allegations of Plaintiff's Complaint, Plaintiff's claimed damages are in excess of \$75,000.00 the minimum amount in controversy requirement as outlined in 28 U.S.C. § 1332(a).

17. Accordingly, this District Court has diversity jurisdiction over this lawsuit.

18. Venue is proper in this District Court as the alleged accident occurred in this judicial District, which is within this judicial District.

19. Plaintiff's Complaint was served upon Amazon via certified mail on or about October 17, 2022.

20. This Notice of Removal is timely as it is being filed within thirty (30) days of the service of the Complaint as required by 28 U.S.C. § 1446(b).

21. Pursuant to the provisions of 28 U.S.C. § 1446(a), copies of all state-court papers which are in Amazon's possession at, or before, the time of removal (consisting of the Complaint) are attached to this Notice as Exhibit "A."

22. Upon information and belief, Plaintiff's Complaint has not been served on any other defendant including the named forum defendants.

23. Therefore, this civil action is properly removable pursuant to 28 U.S.C. § 1332(a)(1) and may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(a-b) in that it is a civil action between citizens of different states, and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

24. Upon filing the within Notice of Removal in the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, Defendant, Amazon.com, Inc. a/k/a Amazon.com, LLC a/k/a Amazon Logistics, Inc. has given notice to counsel for Plaintiff and will file a copy of this Notice with the Prothonotary of the Court of Common Pleas of

Philadelphia County, Pennsylvania.

WHEREFORE, Defendant, Amazon.com, Inc. a/k/a Amazon.com, LLC a/k/a Amazon Logistics, Inc., respectfully request that this action proceed as though originally commenced in this Court.

Respectfully submitted,

**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**



Salvatore A. Clemente, Esquire
Two Commerce Square
2001 Market Street, Suite 3100
Philadelphia, PA 19103
Phone: 215.627.6900
Facsimile: 215.627.2665
Salvatore.Clemente@wilsonelser.com
Attorneys for Defendant, *Amazon.com, Inc.*
a/k/a Amazon.com, LLC a/k/a Amazon
Logistics, Inc.

Date: October 26, 2022

CERTIFICATE OF SERVICE

I, Salvatore A. Clemente, Esquire, counsel for Defendant, Amazon.com, Inc. a/k/a Amazon.com, LLC a/k/a Amazon Logistics, Inc., hereby certify that the foregoing Notice of Removal was electronically filed via this Court's electronic filing system and served via United States First Class Mail Pre-paid and Certified Mail Return Receipt Requested on all Counsel for Record and unrepresented parties on October 26, 2022.

Brian S. Chacker, Esquire
Gay & Chacker, P.C.
1731 Spring Garden Street
Philadelphia, PA 19130
brian@gayandchacker.com
Attorneys for Plaintiff

Defendant Serenity Smith
2645 S. Marshall Street
Philadelphia, PA 1948

Defendant Sergio Vassallo
971 Maple Drive
Southampton, PA 18966

Defendant Ryder Truck Rental, Inc.
11690 NW 105th Street
Miami, FL 33178

Defendant Northeast Metal Traders, Inc.
7345 Milnor Street
Philadelphia, PA 19136

Defendant Randy De-Lossantos
1000 Spruce Street, Apartment 104
Newark, NJ 07108

Defendant DLS Express, Inc.
143 Huntingdon Terrace
Newark, NJ 07112

Defendant GEICO Casualty Company
5260 Western Avenue
Chevy Chase, MD 20815



Salvatore A. Clemente, Esquire